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DOCUMENTS:

- FM 020 Complaint/Appeal Report Form
- FM 056 Complaint/Appeal Register
- FM 057 Complaint/Appeal Schematic

REFERENCES:

- POL 002 Human Resources Manual
- POL 017 DISCIPLINARY PROCESS – STUDENTS
- POL 021 Disciplinary Process – EMPLOYEES
- Student Handbook
- POL 051 Access Equity Fairness Policy and Procedures
- POL 019 Appeals Policy and Procedure
- POL 075 Children’s Protection Policy and Procedures

RELEVANT STANDARDS

- Standards for Registered Training Organisations (RTOs) 2015

AUTHORISED: DATE 01/02/2019

POSITION: CEO

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- Student Handbook
- POL 013 Student Support and Intervention Policy and Procedures
- POL 014 Records Management Policy and Procedures
- POL 050 Privacy Policy and Procedures
- POL019 Complaints Policy and Procedures

# Policy and Procedure - Complaints

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# Policy and Procedure - Complaints

## PURPOSE

The purpose of this document is to give clear direction as to the responsibility and manner in which each employee and contractor is to conduct themselves if a complaint arises.

For the purpose of this document the term 'stakeholders' encompasses internal and external clients including but not limited to students, employees, contractors, industry representatives.

## POLICY

It is the policy of Construction Training Academy (CTA) that all stakeholders will always be treated in a fair and equitable manner.

It is the policy of CTA that all stakeholders will always receive quality service.

### Guiding Principles

CTA provides a process for advocacy, internal complaints and external independent mediation to resolve disputes and external formal concerns.

A stakeholder and/or CTA may nominate;

- › an advocate to accompany, represent and support them
- or
- › an external independent mediation process

at any stage of the complaints process.

CTA commits to a complaints process with the following guiding principles:

- **Completely Confidential**

Only the people directly involved in making or investigating a complaint will have access to information about the complaint.

Discussion of the matter with other CTA stakeholders, apart from the investigative discussion, may hamper the effectiveness of the process and will breach Privacy legislation and ethics.

- **Impartial**

All parties will be provided with equal opportunity for discussion. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.

Stakeholders may be represented by an advocate or have a support person involved in the process.

It is the policy of CTA that all stakeholders will be treated in a fair and equitable manner at all times.

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– **Free from Repercussions**

No action will be taken against anyone for lodging a complaint or assisting someone to lodge or manage a complaint.

No action will be taken against anyone for complying with Mandated Notification requirements.

Management will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a complaint.

– **Timely and Transparent**

All complaints will be dealt with as quickly and transparently as possible.

### ***What is a “Complaint”?***

A complaint arises when a stakeholder is not satisfied with an aspect of CTA or their stakeholder’s services, behaviours or activities and requests action be taken to resolve the matter.

## **SCOPE**

This policy encompasses:

- current and past students;
- student candidates;
- employees;
- contractors;
- suppliers and providers;
- regulatory authorities.

This policy does not cover Appeals. Please refer to the POL18 Appeals Policy and Procedures.

## **DEFINITION**

CTA Representative	- For the purposes of the Appeal Process this will normally be the CEO or their delegate.
Advocate	- Individual who accompanies a Complainant for the purposes of support throughout the process. An advocate for the purposes of this policy does not include Legal Representation.
Appeal	- An appeal arises when a stakeholder is not satisfied with a decision taken by CTA.
Child Safety Officer	- is the CEO.
Complaint	- A complaint arises when a stakeholder is dissatisfied with or aggrieved by an action or event or thing under the control of or within the environment or activities of CTA.
Complaint Event	- Actual instance that occurred for which the complaint is being lodged.

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Complaint/Appeal Committee	- A number of persons nominated by CEO to review complaints.
Complainant	- Person or entity that lodges a complaint.
Contractor	- Individual or entity engaged by CTA under contract to deliver specified work on its behalf e.g. Sessional trainer/assessor.
Employee	- Person employed by CTA on a full or part time or casual basis. Does not include Contractors.
Frivolous Complaint	- Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).
Legal Representation	- A lawyer or similar who is engaged by the Complainant or CTA to represent them in a formal and legal process which may be initiated if the complaint process including external mediation fails.
Malicious Complaint	- Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).
Mediation Event	- Meeting, intervention or other event specifically designed and arranged with the intention of negotiating a solution.
Non-Employee Stakeholder	- Individual or Entity who is not legally employed by CTA e.g. Supplier, Contractor, Regulatory Authority.
Parties to the Complaint	- All individuals and/or entities who are directly involved in lodging or investigating or mediating a complaint.
Stakeholder	- General term inclusive of any individual or entity with whom CTA has a relationship including but not limited to employees, students, contractors and suppliers.
Zero Tolerance	- CTA will not under any circumstances tolerate or condone behaviours that breach the fundamental principles of access, equity and fairness. CTA will take action against any individual or group of individuals proven to have breached these principles and that action may be to the extent of termination of employment or contract or removal of students from hosting.

### PROCEDURE

#### Children

Children will in the first instance be encouraged to address all complaints by verbally advising the staff member with whom they feel most comfortable doing so.

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**If the complaint relates to an allegation of abuse the staff member is to immediately advise the Child Safety Officer and/or CEO and the Children's Protection Policy is to be followed.**

If the complaint does not relate to an allegation of abuse the staff member will support and assist the child student and their parent(s) through the complaints process as per Non-Employee Stakeholders below.

## **Non-Employee Stakeholders**

A complaint in relation to CTA services requires the following steps to be undertaken.

If for whatever reason the stakeholder is unable to undertake any of the following steps, they should speak with a senior member of personnel with whom they are most comfortable.

NB: The stakeholder is encouraged, at any stage of the process, to invite an advocate or support person to participate.

CTA will provide assistance throughout the process.

The process will be:

1. Within 10 working days of the complaint event advise CTA verbally, by telephone, facsimile, email or by letter. Verbal advice (face to face or via telephone) will need to be lodged in writing as well within the specified time limit;
2. Within 5 working days of receipt of complaint and in conjunction with a CTA representative complete the Complaint/Appeal Report Form;
3. Then dependent upon the severity of the complaint:
  - 3.1. Dependent on the nature of the complaint, in the first instance attempt to discuss and negotiate resolution with the person(s) concerned.
    - 3.2.1. If the outcome of the initial discussion is not satisfactory the non-employee stakeholder should within 5 working days advise the CTA representative or any CTA employee that they trust and, request mediation/intervention by an alternate party;
    - 3.2.2. Within 5 days of receipt of the mediator (initially a CTA representative nominated by the CEO) will meet with complainant and other relevant parties and document the complaint in the Complaint/Appeal Register and manage the Complaint/Appeal Report Form which will be updated and co-signed throughout the process. This will include setting of timeframes and provision of copies of all documents and agreements to all parties throughout the process;
4. If resolution is not reached and within 5 working days the complainant should request referral to the CEO for further action/determination;
5. Within 5 working days the CEO meets with all parties.
6. Within 5 working days the CEO is to provide their decision in writing to all parties.

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7. If resolution is not reached the complainant should request referral to the Complaint/Appeal Committee for further action/determination. Referral to the Complaint/Appeal Committee must be in writing clearly stating the reasons why the Complainant is dissatisfied with the decision and lodged within 5 working days of receipt of the decision.
8. The Complaint/Appeal Committee will meet with both the CTA representative and the Complainant within 5 working days of receiving the appeal notice. The meeting is to be documented.
9. Within 5 working days of the meeting the Complaint/Appeal Committee will inform the Complainant of their decision to either uphold or set aside the CTA representative's initial decision. The decision may be given verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to the Complainant supporting verbal advice.
10. If the Complainant is dissatisfied with the Complaint/Appeal Committee's decision or they consider that the complaint process was unsatisfactory they may:
  - a. Lodge an Appeal with CTA (please refer POL 019 Appeal Policy and Procedures)
  - b. request that an external mediator agreeable to all parties be engaged.

CTA utilises the services of:

Mediation & Employment Relations Services

[Ground Floor, 135 Fullarton Road, Rose Park South Australia 5067](#)

Phone: 08 8331 2422

c. contact:

- Training Advocate 1800 006 488
- The National Training Complaints Hotline on 1800 000 674
- Australian Skills Quality Authority  
<http://asqa.gov.au/forms.html#complaintforms>
- SA Office of Consumer and Business Affairs (08) 8204 9777
- SafeWork SA  
Website: [www.safework.sa.gov.au](http://www.safework.sa.gov.au)  
Telephone: 1300 365 255
- Workplace Ombudsman Tel: 13 13 94 or [www.fairwork.gov.au](http://www.fairwork.gov.au)
- Or other relevant regulatory body as may be available related to the specific issue.

If all CTA avenues of appeal process are not successful, the CTA Complaint/ Appeal Committee should advise in writing:

- the Complainant of their right to seek legal intervention;

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- the CEO of the Complainant's intention to seek legal action.

All issue, negotiation/mediation, outcome details and agreements;

- are recorded in writing;
- a copy is provided to all parties within seven (7) days of completion of each event;
- are signed by all parties;
- a copy is filed in line with POL 050 Privacy Policy and Procedures.

### Employees

In the event that an employee has a complaint the following process should be undertaken.

If the complainant finds, for whatever reason, that they are unable to undertake any of the following steps, they should speak with a senior member of staff with whom they are most comfortable.

#### **If the complaint relates to the conduct of another employee: -**

1. Dependent on the nature of the complaint in the first instance attempt to discuss and negotiate a solution with the person concerned;
2. Within 5 days' employee to request mediation/intervention from the CEO;
3. The CEO will document the complaint in the Complaint/Appeal Register and manage the Complaint/Appeal Report Form which will be updated, co-signed and copies provided to all parties throughout the process;
4. If a resolution is not reached with the intervention of the CEO an external facilitator agreeable to all parties should be engaged.
5. CTA utilises the services of:  
  
Mediation & Employment Relations Services  
[Ground Floor, 135 Fullarton Road, Rose Park South Australia 5067](#)  
Phone: 08 8331 2422
- b. Other legislative authority as may be related to the specific issue.
6. If the external facilitator is unable to assist with an acceptable resolution the complainant should be advised of their right to seek legal intervention.

**If the complaint relates to a policy/procedure or system issue**, the complainant should initially avail themselves of the Quality Assurance and Continuous Improvement (QA and CI) process.

If the complainant is not satisfied with the outcome of the QA and CI process they should discuss directly with their Supervisor.

1. Advise the CEO of their concern;
2. Employee and CEO to meet and complete a Complaint/Appeal Report Form;
3. If a resolution is not reached with the intervention of the CEO and

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- .1 the issue relates to a possible *breach of legislation*, an external facilitator specialising in the relevant legislation and agreeable to all parties should be engaged.

If the external facilitator is unable to assist with an acceptable resolution in regard to a breach of legislation;

- the CEO should be advised by the complainant in writing of the intention to notify the relevant Regulatory or Legislative Body, and/or of possible legal intervention;
- the complainant should be advised by the CEO of their right to seek legal intervention.

or

- .2 If the issue relates to an internal policy or procedure which does not breach legislative, moral or ethical obligations, the CEO's decision will be final.

The issue, negotiation details, outcome and signed agreement by all parties:

- › are recorded in writing;
- › a copy is provided to the employee within seven (7) days of completion of each event;
- › a copy is filed in line with Privacy Principles.

### **HANDLING A COMPLAINT**

On receiving a complaint, the person who received the complaint must determine if they are the appropriate person to resolve the matter. Where they consider it would be inappropriate for them to handle the matter, or if the matter is outside the scope of their responsibility, they will discuss this with the complainant within 24 hours of receiving the complaint. The person receiving the complaint is responsible for assisting the complainant to approach a more appropriate person. This may require escalation to the next level of responsibility.

Where the person receiving the complaint believes that they are the appropriate person to deal with the matter, they should arrange to discuss the complaint with the complainant at a time convenient to both parties, but as soon as practical after the matter is first raised. Action to resolve the complaint should commence as soon as possible.

### ***Important Steps for Investigation and Resolution***

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Where possible, minor interpersonal issues and misunderstandings should be resolved quickly and with minimal formality. In such cases, the emphasis is on ensuring that individual needs and expectations are met without deterioration to the relationship.

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## 2. Progress To Resolution

All parties should be consulted throughout the investigation, and no action is to be taken toward resolving their complaint without their prior knowledge and agreement. At a minimum, the parties will be given regular reports on the progress towards resolution of their complaint. The timeframe should be agreed by all parties dependent upon the nature of the complaint.

The person investigating the complaint should establish with the parties the options for resolution they perceive as satisfactory. These are initial ideas and may change or be further developed after more detailed investigation.

If at any stage of the process it becomes apparent that the matter is more complex or serious than originally considered the matter should be referred to a more appropriate person.

## 3. Resolution

If the parties are satisfied with the proposed resolution, all agreed actions should be documented and implemented as soon as is reasonably possible and the complaint considered resolved.

Where resolution is not achieved, the matter should be escalated to the next level of responsibility.

The complaint process does not intend to preclude recourse to other avenues of resolution including Industrial Relations Commission for conciliation or arbitration purposes, or State Authorities, but rather to facilitate an agreeable and speedy resolution.

### ***Guidelines for Negotiating Solution of a Complaint***

- Negotiation should focus on 'win – win' situation
- Outcome should aim for the preservation of long-term relationship
- Process, activities and outcomes should provide benefits for all parties.

### Step 1 - PREPARATION

- Date and Time that is suitable to all parties
- Ensure that venue is private, neutral and comfortable
- Prepare meeting agenda commencing with a positive opening statement
- Clearly articulate the guidelines for negotiation of solution e.g. Demands are not acceptable, blame and justification will not contribute to a positive and outcome focussed discussion/negotiation, etc.

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## Step 2 – CLARIFICATION OF ISSUE

- Identify what the issue is
- Focus discussion on the issue
- Listen carefully and empathise
- Identify shared/common needs

## Step 3 – IDENTIFY and DOCUMENT SOLUTION(S)

- What are the individual and shared needs for outcome
- Ensure solutions are achievable for both parties
- Discuss and prioritise identified solutions
- Negotiate final and most appropriate and satisfactory solution
- Develop action plan and timeframe for the implementation of the solution ensuring all tasks are achievable for all parties within nominated timeframe(s)

## Step 4 – FORMAL AGREEMENT

- Agreement should include:
  - Identification of all parties to the agreement
  - Goal/outcome(s) to be achieved
  - Non-negotiable items
  - Expectation each parties input/action
  - Realistic timeframe(s)
  - Evaluation process
  - Communication process
  - Date and Sign off by all parties.
- Agreement and copy of the finalised Complaint/Appeal Report Form are to be:
  - are recorded in writing;
  - copied to all parties within seven (7) days of completion of each event;
  - a copy is filed in line with Privacy Principles.
- Complaint/Appeal Register and Form
- The Complaint/Appeal Register is to be updated with Agreement details.
- The Complaint/Appeal Report Form is to be updated throughout the process and details of the Agreement to be recorded.

## WITHDRAWING A COMPLAINT

An individual has the right to withdraw a complaint at any stage. However, where the complaint concerns:-

- proven misconduct and/or breach of law or regulatory compliance on the part of any individual or entity;
- or

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- where the failure to resolve the complaint would adversely affect other individuals or CTA ,

CTA reserves the right to finalise the investigation of the original complaint and take the necessary recourse.

## **FRIVOLOUS OR MALICIOUS COMPLAINTS**

A 'Frivolous or Malicious Complaint' is a fictitious complaint or one made intentionally without foundation or to cause detriment or mischief.

Complainants found to have made a 'Frivolous or Malicious Complaint' will face disciplinary action as per the POL 017 Disciplinary Process – Students or POL 021 Disciplinary Process – Employees.

## **CONTINUOUS IMPROVEMENT**

All complaints (not including personal details) will be directed through the Quality Assurance and Continuous Improvement process for evaluation and actioning of opportunities.

## **RESPONSIBILITIES**

### **CEO**

It is the overall responsibility of the CEO to:

- ensure that CTA operations policy, process and standards mitigate opportunity for complaint;
- respond as a matter of priority to any issue identified as a potential 'complaint' and therefore an opportunity for improvement.
- manage operations and compliance in a manner that mitigates the risk of complaint from any CTA stakeholder;
- address and satisfactorily bring to conclusion any and all complaints;
- utilise the learning from complaints in the continuous improvement process as a key strategy to ensure that the complaint is repeated.

### **Stakeholders**

It is the responsibility of, predominantly, all CTA personnel but also all stakeholders to immediately report potential risks for complaint to the CEO.